



PLANNING COMMISSION

Department of Urban Planning & Design • P.O. Box 27210 • Tucson, AZ 85726-7210

DATE: **January 17, 2006**

TO: **Planning Commission**

FROM: *Albert Elias*
Albert Elias AICP, Executive Secretary

SUBJECT: **Land Use Code Amendment – Pay Day Lending Facilities**

Issue – This item is scheduled for study session with the Planning Commission to discuss a Land Use Code (LUC) amendment intended to control the number of payday lending facilities operating within the City.

Recommendation – Staff recommends that the Planning Commission set this item for public hearing on February 1, 2006.

Background – On December 20, 2005, an informational memorandum was provided to the Mayor and Council members. The purpose of the memorandum was to update the Mayor and Council with the results of the October 5, 2005, Planning Commission study session and the status of other local jurisdictions' zoning ordinances regarding payday lending establishments. A copy of the memorandum is included as Attachment A. Council Member Uhlich has indicated a desire to bring forward an LUC amendment for Mayor and Council action at the earliest possible date.

Surrounding Jurisdictions

Both the City of South Tucson and Pima County have adopted ordinances that limit the concentration of these facilities by restricting the location to commercial zones and requiring a separation between like facilities, as well as a separation between the payday facilities and residential zones. According to the South Tucson ordinance, adopted on October 24, 2005, the intent is to mitigate "the propensity for an increase in crime, maintaining property values, and preserving the retail trade and the character, integrity and quality of life in residential neighborhoods...."

The Pima County Board of Supervisors adopted an ordinance on December 6, 2005 that requires a conditional use process for payday facilities. The businesses must be located in the CB-2 (General Business) zone only with a separation of 1,320 feet between like businesses and 500 feet from residential zones. A hearing notification area of three hundred feet from the proposed property is also required.

Staff believes that without a similar ordinance, the City of Tucson will likely experience an increasing concentration of these facilities within the city limits due to the restrictive zoning processes required in surrounding jurisdictions. In addition, the Mayor and Council have

directed staff to proceed with an amendment that is consistent with those adopted by Pima County and South Tucson.

Discussion of the Amendment – At the October 5, 2005 Planning Commission study session, staff presented an analysis of four zoning options identified by the Mayor and Council in the September 20, 2005 study session. Two of the options discussed did not provide an adequate area for these facilities to locate and would essentially mean that payday lending would be “zoned out” of the City. One other option required a separation between payday facilities and between the facilities and residential zones. However, the latter requirement is less restrictive than the ordinances adopted by Pima County and the City of South Tucson. Staff is proposing the fourth option that is consistent with these jurisdictions to ensure a regional zoning approach.

The proposed LUC amendment is provided as Attachment B and includes the following:

- Definition of the use that includes check-cashing services, loans for payment of a percentage fee, deferred presentment and auto title lenders.
- Limit the use to the C-2 and C-3 (Commercial) zones subject to criteria.
- Approval through a special exception process.
- Subject to a separation between facilities of 1320 feet and 500 feet of separation between the facility and residential zones.

Requiring 1,320 feet of separation between facilities and 500 feet between facilities and residential zones reduces the amount of commercial property available for payday lending locations. Staff analyzed the remaining amount of commercial property in the C-1, C-2 and C-3 zones once the separation criteria were applied. The results were: approximately 300 acres or 3% remaining in C-3, 577 acres or 6% remaining in C-2 and 207 acres or 2% remaining in C-1. By restricting payday lending store locations to the C-2 and C-3 zones and requiring approval by a special exception process, the use will be limited but opportunity for locating within the City will be provided. In addition, the City’s zoning will more closely match the ordinances adopted by Pima County and South Tucson. Staff believes that the special exception process would be effective particularly to provide an opportunity for public input and with the separation criteria is an effective measure in limiting the concentration of these facilities.

Conclusion – Staff recommends that the Planning Commission set this item for a public hearing scheduled for February 1, 2006.

Staff also concludes that placing this item on the legislative agenda is essential to effectively regulating payday lending facilities. Because past legislative efforts have been focused on lending practices associated with military personnel, staff supports legislative efforts this session that would be substantially expanded to include revisions to the usury and general business practice regulation.

Attachments:

A – Draft Land Use Amendment

B - Memorandum to Mayor and Council – Payday Lending Facilities, December 20, 2005